IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4375 of 2007()

CRA.233/2002 of I ADDL. SESSIONS COURT, KOLLAM
CC.134/2000 of JUDL.MAGISTRATE OF FIRST CLASS-II,PUNALUR

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REVN. PETITIONER: REVISION PETITIONER/APPELLANT/ACCUSED

BABU, S/O.SADANANDAN, CHARUVILA PUTHEN
VEEDU, POTHENPARA, MOONGODE MURI, ALAYAMON
VILLAGE, ANCHAL, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE

STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE, ANCHAL, KOLLAM DISTRICT
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. P. RAVEENDRA BABU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4375 OF 2007

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Dated this the 7th day of December, 2007.

ORDER

The revision petitioner, who was the sole accused in C.C No. 134 of 2000 on the file of the Judicial First Class Magistrate-II, Punalur for an offence punishable under Section 324 IPC, challenges the conviction entered and the sentence passed concurrently by the courts below for the said offence.

2. The case of the prosecution can be summarised as follows:

On 14.7.1999 at about 8.30 p.m. the accused beat PW1 (Ambika) thrice with a stick of rubber tree causing injuries to her right knee, right elbow and right chest from the courtyard of the shop of the accused situated on the northern side of Alamcherri-Chennapetta public road at Pothanpara. The said attack was on account of the previous enemity towards the husband of PW1 who owned a sum of Rs.35/- to the accused.

3. The prosecution examined 6 witnesses as PWs 1 to 6 and got marked 5 documents as Exts.P1 to P5.

4. The revision petitioner/accused was examined with

regard to the incriminating circumstances. He denied those circumstances and maintained his innocence. He did not adduce any defence evidence when called upon to do so.

5. The learned Magistrate after trial, as per judgment dated 29.08.2002 found the revision petitioner guilty of the offence and sentenced him to rigorous imprisonment for six months. An appeal preferred by the revision petitioner as Crl.A No.233/2002 before the Sessions Court, Kollam was dismissed by the First Additional Sessions Court, Kollam as per judgment dated 03.03.2007. Hence this revision.

6. Even though the learned counsel appearing for the revision petitioner assailed on various grounds the conviction recorded by the courts below, in as much as the conviction has been recorded by the courts below after a careful evaluation of the oral and documentary evidence in the case, this Court sitting in revision will be loath to interfere with the said conviction. The conviction recorded against the revision petitioner is accordingly confirmed.

7. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the revision petitioner. It is true that the attack on PW1 Ambika, a woman, was on account on account of the enemity of the accused towards her husband. But then having regard to the minor injuries sustained by PW1 and having regard to the fact that PWs 2 and 3, who were the independent occurrence witnesses, turned hostile to the prosecution, I am of the view that the revision petitioner/accused does not deserve penal servitude by way of incarceration for more than the period already undergone by him since 09.11.2007. However, he will have to compensate the victim of the crime in view of the mandate under Section 357 Cr.P.C. Accordingly, the sentence imposed on the revision petitioner is set aside and instead, the imprisonment already undergone by him since 09.11.2007 and an appropriate compensation shall meet the the ends of justice. Besides the imprisonment undergone by him since 09.11.2007, he is also directed to pay a sum of Rs.7,500/- (Rupees seven thousand and five hundred only) by way of compensation to PW1

under Section 357(3) Cr.P.C. If the compensation is not paid within 45 days from today, he shall suffer simple imprisonment for two months by way of default sentence.

8. The petitioner is directed to be released from custody forthwith unless his continued detention is found necessary in connection with any other case. His release shall however be subject to his payment of compensation to PW1 within 45 days. If PW1 is no more, the revision petitioner shall deposit the compensation before the trial court for disbursement to the legal heirs of PW1.

in the result, the revision is disposed of confirming the conviction entered but modifying the sentence as above.

V. RAMKUMAR, JUDGE.

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P.A To Judge